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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

JAMES ANDREW RYMEL,

Plaintiff and Respondent,

v.

JESSICA VELASQUEZ BALBUENA,

Defendant and Appellant.

2d Crim. No. B290229  
(Super. Ct. No. 18FL00539)  
(Santa Barbara County)

Jessica Velasquez Balbuena, in propria persona, appeals a permanent domestic violence restraining order prohibiting her from harassing or contacting her former boyfriend, James Andrew Rymel. (Fam. Code, § 6200 et seq., Judicial Council Form DV-130.) We affirm.

*FACTUAL AND PROCEDURAL HISTORY*

On March 2, 2018, Rymel filed a request for a domestic violence restraining order to prevent Balbuena from harassing or contacting him. Rymel alleged that Balbuena repeatedly called and sent e-mail and text messages to him although he had ceased communicating with her nine months prior. Rymel explained

that he and Balbuena were former romantic partners and cohabitants, but that he moved away in May 2017. On March 2, 2018, the family law court issued a temporary restraining order pending an evidentiary hearing regarding Rymel's application.

On March 29, 2018, the family law court held an evidentiary hearing and heard testimony from Rymel and Balbuena. The court also received evidence of text messages, telephone calls, and other communications sent to Rymel from Balbuena.

Rymel testified that he and Balbuena dated and cohabited until March 2017. On May 15, 2017, he ceased communications with her. Rymel stated that Balbuena continued to contact him, however, until February 19, 2018: “[S]he contacted me from seven different phone numbers, phone call and text message, e-mail, social media . . . . [T]here were a few days where she called more than ten times . . . .” Although text messages may have been sent from different phone numbers, the messages concerned “the same points.”

Balbuena testified that she contacted Rymel only 12 or 15 times, and that his claims otherwise were fabricated. She stated that she last contacted Rymel in December 2017, but that her mother contacted him several times to collect a debt.

At the conclusion of the hearing, the family law court issued a domestic violence prevention restraining order prohibiting Balbuena from harassing or contacting Rymel or approaching him or his property within 100 yards. The restraining order expires on March 29, 2019.

In ruling, the court expressly found that Balbuena sent the text messages to Rymel because the content of the messages referred to previous communications between the parties: “It

makes zero sense . . . why some random person would send Mr. Rymel these messages of conversations that you two had together.”

Balbuena appeals and challenges issuance of the restraining order.

### *DISCUSSION*

Balbuena argues that she did not receive personal service of Rymel’s application for the temporary and permanent restraining orders. She asserts that notice was sent to the address of her mother instead of to her.

On March 23, 2018, Balbuena submitted a written response (Judicial Form DV-120) to Rymel’s application for a restraining order, including her declaration of factual matters. She also personally appeared at the permanent restraining order hearing, and orally requested a restraining order against Rymel.

A general appearance operates as a consent to personal jurisdiction, dispensing with the requirement of service of process and curing defects in service. (*In re Marriage of Obrecht* (2016) 245 Cal.App.4th 1, 7-8.) “Process is waived by a general appearance, in person or by attorney, entered in the action, or by some act equivalent thereto, such as the filing of a pleading in the case or by otherwise recognizing the authority of the court to proceed in the action.” (*Harrington v. Superior Court* (1924) 194 Cal. 185, 189.) Balbuena's personal appearance and written response to Rymel's application cured any defects in the service of process.

### II.

Balbuena argues that the restraining order rests upon insufficient evidence, asserting that Rymel’s testimony was

unreliable and not credible. She also denies that she harassed Rymel with text messages or voicemails.

We review the factual basis for issuance of the restraining order for substantial evidence. (*Phillips v. Campbell* (2016) 2 Cal.App.5th 844, 849.) We resolve all factual conflicts and questions of credibility in favor of the prevailing party. (*Id.* at pp. 849-850.) The substantial evidence standard of review is considered a difficult standard of review to meet. (*Id.* at p. 850.)

Here the family law court received testimony from Rymel and Balbuena and evaluated their credibility. The court also received evidence of text messages received by Rymel, discussing their prior conversations, Balbuena's health, the sale of a jointly used or owned vehicle, and their dog. In addition, Balbuena admitted sending communications to Rymel 12 or 15 times. We do not reweigh the evidence or substitute our reasonable inferences for those drawn by the trier of fact. (*Phillips v. Campbell, supra*, 2 Cal.App.5th 844, 849-850.)

### III.

Balbuena contends that the family law court failed to grant her a continuance to obtain legal counsel and prepare a defense.

The record does not reflect that Balbuena requested a continuance either orally in court or in her written response to Rymel's application. Indeed, at the outset of the March 29, 2018, hearing, Balbuena stated that she also was seeking a restraining order, although she did not so request in her written response. Balbuena has forfeited this contention because she did not request a continuance in the family law court.

The order is affirmed.  
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GILBERT, P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Von N. Deroian, Judge

Superior Court County of Santa Barbara

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Jessica Velasquez Balbuena, in pro. per., for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.